

Core Services Category: Public Safety

Study Area: Reorganization/Efficiency

High Level Recommendation: Repeal the appropriate sections of the Homeland Security and Emergency Management Department (Section 9-21-1 through 9-28-7, NMSA 1978) and return all emergency management and homeland security, policy development, agency coordination, and implementation functions to the Department of Public Safety.

Problem Statement: As indicated in the January 14, 2010 report of the Committee on Government Efficiency, there exists an unnecessary dual agency approach to statewide homeland security and public safety functions and the Homeland Security and Emergency Management Department should be merged into the Department of Public Safety.

The adjusted FY11 general fund appropriation to the Homeland Security department is \$2.7 million; however, federal fund is \$35.4 million, with the majority of federal funds (\$26 million) being passed through as grants to various state and local agencies to support homeland security-related initiatives.

The adjusted FY11 General Fund appropriation to the Department of Public Safety is \$88 million and federal funding of \$20.8 million, with some \$6 million being passed through as grants to various state and local agencies in support of various law enforcement initiatives. Considering that DPS has an FY11 FTE count of 1,259, contrasted with Homeland Security's 66 FTE, it appears that Homeland Security could be absorbed back into DPS at the program level with the grants management function for the most part being assumed by existing DPS infrastructure.

Additionally, since the homeland security function is primarily directed to coordination and consultation – with no actual incident operational control – it would support the primary DPS mission to “...protect and secure the people of New Mexico in their lives, homes, and communities.” This realignment could not only streamline chain of command issues, but would also eliminate 26 FTE – including five GOVEX positions – and save approximately \$779.8 thousand in general fund. It should be noted that the new program alignment will present a return to the original DPS organizational structure that existed prior to the elevation of homeland security responsibilities to cabinet-level status while maintaining the current level of service.

Proposed draft legislation seeks to merge the Homeland Security and Emergency Management Department, the Enhanced 911 Service Program, the Fire Marshall Division of the Public Regulation Commission with the Department of Public Safety (DPS). In addition it transfers the DPS Motor Transportation Division to the Department of Transportation. The draft creates two new divisions within the Department of Public Safety called the Homeland Security and Emergency Management Division and the Fire Marshal Division, while transferring all of the current statutory functions of both into those new divisions. Additionally, the draft transfers the appropriations, money, property, contractual obligations and references currently held by the Homeland Security and Emergency Management Department, Department of Finance and Administration and the Public Regulation Commission to the Department of Public Safety. This draft does not transfer personnel currently employed by the Homeland Security and Emergency

Management Department, Public Regulation Commission and Department of Finance and Administration to the Department of Public Safety.

This draft repeals the Homeland Security and Emergency Management Department Act and makes provisions for amending, repealing, recompiling and reconciling sections of NMSA 1978 the federal insurance administration.

Background and Findings: The New Mexico Office of Emergency Management was first created in 1959 as the Civil Emergency Preparedness Division (CEPD) of the Office of Military Affairs. The State Civil Emergency Preparedness Act redefined the purpose and function of the Division. In 1979, the Federal Emergency Management Agency (FEMA) was and CEPD was then reorganized to meet the FEMA structural requirements. In 1987, the office was moved from Office of Military Affairs to the Department of Public Safety. In 1990, the name of the agency was changed to the Office of Emergency Management, Department of Public Safety. In 2003, the governor created the Governor's Office of Homeland Security that worked in conjunction with the Office of Emergency Management. In 2007, Chapter 291 (House Bill 227) created the Homeland Security and Emergency Management Department. The law removed the Emergency Management and the Homeland Security Support Program from the Department of Public Safety from DPS and the Office of Homeland Security from the Governor's Office to create a separate Homeland Security and Emergency Management Department (DHSEM). The purpose of the new department was to:

- Consolidate and coordinate homeland security and emergency management functions to provide comprehensive and coordinated preparedness, mitigation, prevention, protection, response, and recovery for emergencies, disasters and acts of terrorism, regardless of cause;
- Serve as the central primary coordinating agency in response to emergencies, disasters, and acts of terrorism; and
- Serve as the conduit for federal assistance and cooperation in response to emergencies, disasters and acts of terrorism.

Options to Consider: The mission of DHSEM, as the central primary coordinating agency for the state and its political subdivisions, is to consolidate and coordinate emergency management functions to provide comprehensive and coordinated preparedness, mitigation, prevention, protection, response and recovery for emergencies and disasters, regardless of cause. The agency is also the conduit for federal assistance and cooperation in response to emergencies, disasters and acts or threats of terrorism. The agency not only deals with sister state agencies and local jurisdictions, but is the state coordinator with Federal Emergency Management Agency during a national emergency or a presidentially declared disaster under the Stafford Act. Additionally, the New Mexico All Source Intelligence Center is housed within the DHSEM. It is suggested that participation in this program by law enforcement agencies including federal agencies has been successful due to DHSEM not being a party to active criminal investigations; however, as a separate program within DPS – and not placed under direct state police oversight – it appears that this distance could be preserved.

The Department of Public Safety's mission is to be the state's law enforcement agency with the DPS role in a disaster or emergency is to enforce laws and protect the public as needed. The

National Emergency Management Association (NEMA) has recognized that to be an effective coordinator of emergency resources, an agency must be able to pull from all the available assets including for example; the New Mexico National Guard, the New Mexico State Police, New Mexico Department of Health, Energy Minerals Natural Resource Department or the New Mexico Department of Transportation. However, although it may be argued that DHSEM and DPS could conceivably find themselves with different specific missions during disasters or emergencies, the fact remains that their overarching missions share similar focus.

Fiscal Implications: Because the draft legislation transfers the budget of the Homeland Security and Emergency Management Department, Fire Marshall Division and the Enhanced 911 Service Program to the Department of Public Safety, DPS does not anticipate the merger to create a fiscal impact to DPS. However, DPS suggests that the draft should include legislation transferring staff of the above departments / programs / divisions to the Department of Public Safety. DPS notes that there may be additional fiscal impact if there are administrative personnel currently assisting these potentially merged departments, which will not be transferred to DPS. Further discussion and coordination with PRC, DFA and Homeland Security and Emergency Management Department will be necessary to accurately determine “administrative impact” if any from this merger.

Combined Department of Public Safety, Homeland Security Department, Public Safety Program(PRC) and E-911 (DFA) Cost Projections
Based Upon Adjusted FY11 Operating Budget (3.2 percent reduction)

Account Code	Account Title	Department of Public Safety	Transfer of the Motor Transportation Program to DOT	Homeland Security Department	E-911 Program	PRC Public Safety Program	Total Combined Operating Budget for FY11	Potential GF Cost Savings	New Combined Budget
200.0	Personal Services/Benefits	90,052.9	(16,997.2)	4,091.1	487.9	3,557.1	81,191.8	(779.8)	80,412.0
300.0	Contractual Services	5,808.2	(2,955.0)	1,799.1	30.9	364.1	5,047.3	(36.0)	5,011.3
400.0	Other	35,434.9	(6,205.5)	32,577.2	19,481.2	1,946.2	83,234.0	(80.0)	83,154.0
	Total	131,296.0	(26,157.7)	38,467.4	20,000.0	5,867.4	169,473.1	(895.8)	168,577.3
	Less 3.2 percent GF reduction	(2,953.8)		(90.9)	-	-	(3,044.7)		(3,044.7)
Adjusted		128,342.2	(26,157.7)	38,376.5	20,000.0	5,867.4	166,428.4	(895.8)	165,532.6

Cost Savings Detail

200.0	Personnel Services								
	Elimination of 12 duplicative General Fund, primarily administrative FTE currently employed by Homeland Security Dept.								
	General Fund Savings								(779.8)
	Total 200								(779.8)
300.0	Contractual Services								
	Independent Financial Audit (Performed on both agencies) General Fund Savings								(36.0)
	Total 300								(36.0)
400.0	Other Costs								
	Supplies and other general support costs (based on 12 FTE reduction) General Fund Savings								(60.0)
	In-State Travel General Fund Savings								(20.0)
	Total 400								(80.0)

Issues: DPS raises a number of concerns with respect to the transfer the Motor Transportation Division from the Department of Public Safety to the Department of Transportation would be

detrimental and counterproductive to the intentions of the rest of this proposal. The department states:

“...it appears this draft is attempting to consolidate all law enforcement and emergency services under one agency, the Department of Public Safety. Removing the Motor Transportation Division, would defy this. Currently, the New Mexico State Police and the Motor Transportation Division possess similar law enforcement authority but perform two very distinctly different missions. The New Mexico State Police mission is to provide for safer highways and safer communities, whereas the Motor Transportation Division mission is to enforce the motor carrier act and collect taxes from the various motor carriers. They do, however, assist with traffic safety efforts. By removing them from DPS, would virtually set up a scenario where two state law enforcement agencies could be competing for the same grants to perform the same efforts. Currently, this does not exist because it is managed and overseen by one entity, the Department of Public Safety, as opposed to two as provided in this draft. Additionally, it is a very distinct possibility, while under the direction of two different agencies and leaders, the Motor Transportation Division and New Mexico State Police could move away from their more traditional missions and into other areas and end up competing with one another. This would lead to a reduction in the coordinated effort the Department of Public Safety currently provides. Should this scenario occur, there would be a reduction in the efforts of the Motor Transportation Division relating to tax collection of motor carriers operating to and through the State of New Mexico.”

DPS adds that, “Transferring the Administration of E911 Services to Homeland Security and Emergency Management [as structured as a division in the Department of Public Safety] appears logical. Currently, Homeland Security and Emergency Management are charged with interoperability of communications between emergency service agencies. This transfer would provide for a seamless process and would reduce the number of state agencies involved in the decision making process that exists today.” With respect to State Fire Marshal responsibilities, DPS notes:

Transferring the Fire Marshal’s Division to DPS from the PRC is also very logical. As previously stated, the Department of Public Safety is the State’s law enforcement agency, tasked with the investigation of criminal violations that occur within the State of New Mexico. The addition of the Fire Marshal Division would provide for an improved response to arson investigations statewide. Currently, the New Mexico State Police and Fire Marshal Division collaborate during these investigations and this will only enhance our ability to do so. Additionally, the Fire Marshal’s Office has some regulatory responsibilities as does the Special Investigations Division of the Department of Public Safety. Further, the transfer of the Fire Marshal’s Division to the DPS may lead to improved response to the citizens by enhancing collaboration with the DPS Forensic Bureau. Therefore, this proposed draft appears to attempt to move all law enforcement related entities under the Department of Public Safety.

The Department of Homeland Security and Emergency Management suggests the following fundamental considerations associated with merging the agency with the Department of Public Safety:

1. DHSEM focus is response and preparation to an emergency regardless of the cause. The agency also is the States coordinating entity during a disaster. DHSEM coordinates resources, local, State and Federal, to effectively respond to the incident. These resources are Fire, EMS, National Guard, Law enforcement and national assets. DPS is one of the many assets utilized. An inherent problem with coordination of a multi jurisdiction response by a law enforcement agency is that territorial battles ensue and unlike agencies (fire, EMS, National Guard, etc) sometime so not blend well because of the difference in missions;
2. DPS has a mission that is clearly law enforcement. Response to non law enforcement incidents is not within their scope; and
3. Financial management (federal funding, grant and disaster) is more timely and effective out of a smaller more nimble organization. DHSEM is current with regard to Federal grant close out and reporting for all grants programs beginning with the creation of the agency (DHSEM) the grant programs managed under the Department of Public Safety (prior to 2007) have yet to be completely reconciled. This speaks to the efficiencies gained after the separation. This is a direct impact to funding for New Mexico as well as a negative impact to the local programs the agency supports. The New Mexico State Police is one of many law enforcement programs funded by Federal Homeland Security Grants. Today this is a competitive process that places local jurisdictions and State Police as equal applicants. If this merger was enacted, DPS becomes the funding agency. Therefore placing local law enforcement programs at a disadvantage.

